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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

)
Amendment to Section 1.773)
of the Commission's Rules)
Regarding Pleading Cycle)
for Petitions Against)
Tariff Filings Made on)
14 Days' Notice)

CC Docket No. 92-117

ORIGINAL
FILE

REPLY

U S WEST Communications, Inc. ("U S WEST"),¹ through
counsel and in response to the Federal Communications
Commission's ("Commission") Notice of Proposed Rulemaking² in the
above-captioned proceeding, hereby files its reply to comments on
the Commission's proposals.³

I. INTRODUCTION

In its NPRM, the Commission proposed to reduce the time

¹U S WEST is a common carrier provider of exchange access
and exchange telecommunications services.

²Amendment to Section 1.773 of the Commission's Rules
Regarding Pleading Cycle for Petitions Against Tariff Filings
Made on 14 Days' Notice, Notice of Proposed Rulemaking, 7 FCC
Rcd. 3386 (1992) ("NPRM").

³Comments were filed on or about July 23, 1992 by: Ameritech
Operating Companies ("Ameritech"); American Telephone and
Telegraph Company ("AT&T"); The Bell Atlantic Telephone Companies
("Bell Atlantic"); BellSouth Telecommunications, Inc.
("BellSouth"); Capital Cities/ABC, Inc., CBS, NBC and TBS
("Capital Cities"); GTE Service Corporation ("GTE");
Interexchange Resellers Association ("IRA"); MCI
Telecommunications Corporation ("MCI"); Pacific Bell and Nevada
Bell ("Pacific"); Southwestern Bell Telephone Company ("SWB");
Telecommunications Marketing Association ("TMA"); U S WEST; and
United States Telephone Association ("USTA").

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allowed for petitions seeking investigation, suspension or rejection of tariff filings made on 14 days' notice and the time allowed for replies.⁴ The Commission's purpose in proposing changes to its tariff rules was to allow the Commission time to consider arguments opposing 14-day tariff filings prior to the effective date of such tariffs. With few exceptions, U S WEST and most other commenters supported the Commission's proposals.⁵ The only opposition to the Commission's proposal was contained in the joint filing of Capital Cities. In the comments which follow, U S WEST responds to the comments of Capital Cities and those of one other filing party, the IRA.

II. THE COMMISSION SHOULD REJECT PROPOSALS TO ALTER THE COMMENCEMENT OF THE PLEADING CYCLE

In opposing the Commission's proposal, Capital Cities expresses frustration with delays encountered in obtaining notice of tariff filings through the Commission's tariff transmittal public reference log ("tariff log").⁶ To overcome this problem, Capital Cities suggests that the period for filing petitions should not begin to run until a tariff appears in the Commission's tariff log or the Commission should adopt procedures to guarantee that the tariff will appear in the next day's tariff

⁴NPRM, 7 FCC Rcd. at 3386 ¶¶ 1, 4, 3387 ¶ 6.

⁵See, e.g., Ameritech at 1; AT&T at 2; GTE at 1; Pacific at 2; U S WEST at 2; and USTA at 1.

⁶Capital Cities at 3.

log.⁷ U S WEST opposes Capital Cities' suggestion that the starting point of the pleading cycle be modified to begin with the appearance of a tariff in the tariff log.⁸

This proposal would not meet the Commission's objective of allowing adequate time for review of a 14-day tariff filing prior to the effective date of the tariff.⁹ The Commission's proposal was aimed at synchronizing the tariff pleading cycle with the 14-day notice requirement. Under the Communications Act ("Act"),¹⁰ carriers are required to file tariffs for their services. One of the few items that the Act requires in a tariff is an effective date.¹¹ The effective date is governed by the date that the tariff is filed and the Commission's notice requirements. Clearly, the effective date of a tariff will not be modified by Capital Cities' proposed change in the pleading cycle. As a result, Capital Cities' proposal does not address the problem the Commission is trying to resolve and should be rejected.

⁷Id. at 4-5.

⁸U S WEST has no opinion on Capital Cities' suggestions with respect to Commission procedures on the release of tariff logs.

⁹Capital Cities is basically proposing that Section 61.58(a)(1) of the Commission's rules be revised. This section states: "Notice is accomplished by filing the proposed tariff changes with the Commission. Any period of notice specified in this section begins on and includes the date the tariff is received by the Commission[.]" 47 C.F.R. § 61.58(a)(1).

¹⁰47 U.S.C. § 203.

¹¹Id. at § 203(a).

III. THE COMMISSION SHOULD REJECT PROPOSALS TO ALTER THE
TARIFF NOTIFICATION PROCESS

Both Capital Cities and IRA propose changes to the Commission's notice requirements contained in Section 61.58.¹² Capital Cities argues that the Commission should adopt more stringent requirements for notifying affected parties of dominant carrier rate increases or service discontinuances if the Commission reduces the time for filing oppositions to 14-day tariff filings.¹³ U S WEST opposes this proposal. The Commission's NPRM contained no proposals for modifying the notice requirements in Section 61.58. Capital Cities has presented no evidence as to the inadequacy of Section 61.58, as it exists today. As such, there is no basis for adopting an unreasonably narrow approach to notification in Section 61.58, as Capital Cities proposes.

IRA goes one step further and suggests that the Commission adopt a "Tariff Transmittal Notification" process for interested parties.¹⁴ This process would require that carriers fax the entire contents of tariff transmittals to interested parties. U S WEST objects to IRA's proposal as unnecessarily burdensome. The adoption of such a notice requirement is far

¹²47 C.F.R. § 61.58.

¹³Capital Cities at 5 n.3. Capital Cities suggests that Section 61.58(a)(4) "be modified to require that the notice describing the tariff changes actually be received by the affected customer in writing no later than the tariff filing date." Id.

¹⁴IRA at 1-2.

beyond the Commission's current notice requirements and would frustrate the Commission's goal of adopting streamlined tariff regulation for inband price cap tariff filings. As such, the Commission should reject IRA's notification proposal.

IV. CONCLUSION

As the foregoing demonstrates, Capital Cities' and IRA's proposals do nothing to assist the Commission in achieving its goal of analyzing and ruling on petitions to suspend, investigate or reject 14-day tariff filings within the allotted period. As such, these proposals are without merit and should be rejected by the Commission.

Respectfully submitted,

U S WEST Communications, Inc.

By: James T. Hannon / A. Lim
Lawrence E. Sarjeant
James T. Hannon
1020 19th Street, N.W.
Suite 700
Washington, D.C. 20036
(202) 429-0303

Its Attorneys

August 7, 1992

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify on this 7th day of August, 1992, that I have caused a copy of the foregoing **REPLY** to be served, via first class United States mail, postage prepaid, to the persons named on the attached service list.


Kelseau Powe, Jr.

*Hand Delivered

*Cheryl A. Tritt, Chief
Common Carrier Bureau
Federal Communications
Commission
1919 M Street, N.W.
Room 500
Washington, D.C. 20554

*Downtown Copy Center
Federal Communications
Commission
1919 M Street, N.W.
Room 246
Washington, D.C. 20554

*Gregory J. Vogt, Chief
Tariff Division
Federal Communications
Commission
1919 M Street, N.W.
Room 518
Washington, D.C. 20554

*Tariff Division
Federal Communications
Commission
1919 M Street, N.W.
Room 518
Washington, D.C. 20554
(2 Copies)

*Colleen Boothby, Deputy Chief
Tariff Division
Federal Communications
Commission
1919 M Street, N.W.
Room 518
Washington, D.C. 20554

Floyd S. Keene
Mark R. Ortlieb
Ameritech Operating Companies
2000 W. Ameritech Center Drive
Room 4H84
Hoffman Estates, IL 60196-1025

*Judy Nitsche, Chief
Tariff Review Branch
Federal Communications
Commission
1919 M Street, N.W.
Room 518
Washington, D.C. 20554

Francine J. Berry
Roy E. Hoffinger
American Telephone & Telegraph
Company
295 North Maple Avenue
Room 3244J1
Basking Ridge, NJ 07920

*Ann Stevens, Chief
Tariff Division Legal Branch
Federal Communications
Commission
1919 M Street, N.W.
Room 518
Washington, D.C. 20554

James R. Young
Michael D. Lowe
Bell Atlantic Telephone
Companies
1710 H Street, N.W.
Washington, D.C. 20006

William B. Barfield
Richard M. Sbaratta
BellSouth Telecommunications, Inc.
1155 Peachtree Street, N.E.
Suite 1800
Atlanta, GA 30367-6000

Mark W. Johnson
CBS, Inc.
One Farragut Square South
1634 I Street, N.W.
Washington, D.C. 20006

Randolph J. May
Timothy J. Cooney
Sutherland, Asbill & Brennan
1275 Pennsylvania Ave., N.W.
Washington, D.C. 20004

Gail L. Polivy
GTE Service Corporation
1850 M Street, N.W.
Suite 1200
Washington, D.C. 20036

Howard Monderer
National Broadcasting Company
Inc.
1331 Pennsylvania Ave., N.W.
North Office Building, Suite 930
Washington, D.C. 20004

Spencer L. Perry, Jr.
Interexchange Resellers
Association
P.O. Box 5090
Hoboken, NJ 07030

Bertram W. Carp
Turner Broadcasting Systems, Inc.
820 First Street, N.E.
Suite 956
Washington, D.C. 20002

Donald J. Elardo
MCI Telecommunications, Inc.
1801 Pennsylvania Ave., N.W.
Washington, D.C. 20006

Charlene Vanlier
Capital Cities/ABC, Inc.
2445 M Street, N.W.
Suite 480
Washington, D.C. 20037

James P. Tuthill
Betsy S. Granger
Pacific/Nevada Bell
140 New Montgomery Street
Room 1525
San Francisco, CA 94105

James L. Wurtz
Pacific/Nevada Bell
1275 Pennsylvania Ave., N.W.
Washington, D.C. 20004

Durward D. Dupre
Richard C. Hartgrove
Thomas A. Pajda
Southwestern Bell Telephone
Company
1010 Pine Street, N.W.
Room 2114
St. Louis, MO 63101

Andrew O. Lsar
Telecommunications Marketing
Association
14405 SE 36th Street
Suite 300
Bellevue, WA 98006

Martin T. McCue
United States Telephone
Association
900 19th Street, N.W.
Suite 800
Washington, D.C. 20006-2105